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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1961.

No. 646

MANUEL SANCHEZ GALLEGOS,
JOHN FRANKLIN TAYLOR,
Petitioners,

vs.

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT.

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IN THE

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OCTOBER TERM, 1961.

No. .....

MANUEL SANCHEZ GALLEGOS,
JOHN FRANKLIN TAYLOR,
Petitioners,

vs.

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT.

TO THE SUPREME COURT OF THE UNITED STATES:

Petitioners pray that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Ninth Circuit, affirming the judgments of the United States District Court for the Southern District of California, Central Division, convicting the petitioners of a violation of the Universal Military Training and Service Act and sentencing them to the custody of the Attorney General.

1. OPINION OF THE COURT BELOW.

The opinion of the United States Court of Appeals is not yet reported. It is in the Transcript of Record, Vol. 2. It is also Appendix A to this petition.

2. STATUTORY PROVISION SUSTAINING JURISDICTION.

The judgment of the Court of Appeals was entered on November 6, 1961 [R. Vol. 2, also see Appendix B to this petition].

A 30 day extension of time was granted by the Court to file this petition. This petition for writ of certiorari is filed within the required thirty days' time, as extended.

The jurisdiction of this Court rests on Section 1254 (1) of the Judicial Code, 28 U.S.C. The district court has jurisdiction under 18 U.S.C., § 3231.

3. QUESTIONS PRESENTED AND HOW RAISED.

I.

Were petitioners denied due process when they were denied the physical reexamination given registrants when more than 120 days elapsed between the order to report and the prior examination? The question was originally raised by motions for judgment of acquittal and then by motions for new trial.

II.

Were petitioners denied due process upon their reprocessing by the agency when they were never given a phys-

ical examination during any of the several reprocessings each had? The question was raised by the aforesaid motions.

III.

Is evaluation of newly discovered evidence, as the basis of a motion for a new trial, subject to the exercise of the trial judge's discretion where, as here, it is urged that said evidence supports a claimed denial of due process present in the petitioner's administrative agency's processing? The question is explicitly raised by the Court of Appeals' opinion.

4. STATUTES AND REGULATIONS INVOLVED.

Amendment V to the Constitution, due process clause is involved.

Section 1 (c) of the Universal Military Training and Service Act is involved.

Sections 1622.1 (b) and (d), 1623.3, 1628.10, 1631.7 and 1660.20 (a) are involved.

All above sections of the Act and of the Regulations are set forth in Reasons for Granting Writ.

5. STATEMENT OF THE CASES.

Each appellant was convicted of a violation of the Universal Military Training and Service Act. Taylor and Gallegos were each given five years by District Judge Tolin.

Each appealed to the Court of Appeals for the Ninth Circuit and each conviction was affirmed (*Johnson et al.* v.

United States, 9th Cir., 1961, 285 F.2d 700. *Taylor* v. *United States*, 9th Cir., 1961, 285 F.2d 703).

Each thereafter timely filed a motion in the district court for a new trial on the ground of newly discovered evidence, each using the same, single fact relating to a point, in common, in the original appeals, namely, the physical examination point. The motions were denied, timely notices of appeal were filed and each appellant was again admitted to bail pending determination of his appeal, on nominal bond.

6. REASONS FOR GRANTING THE WRIT.

I.

Petitioners were not accorded the same physical examination opportunities given all other registrants despite the commands of the Act and of the agency regulations.

It is of importance to the nation that the administrative agency dealing with the manpower portion of our national defense effort handle the vast numbers of young men it processes "[i]n accordance with a system of selection that is fair and just." [Act, § 1(c)]. The continued existence of the Selective Service System as a smooth and effective manpower-producing machine depends on public confidence. Whatever materially erodes confidence in its fairness of operation is subversive to the national safety.

The decision of the Court of Appeals, based on the philosophy that petitioners (classified in Class I-O) did not "need" the same physical examination given others because they are subjected to "different stresses", should not be permitted to stand, in that it is contrary to the express provisions of the regulations, breaches the wall of fair and equal treatment and discredits the Act.

It is public knowledge that a high proportion of selectees do not become inductees because they do not meet the current standards. President John F. Kennedy, addressing the National Football Foundation on December 5, 1961, stated that it was necessary to call up seven men to get two. Comparable statistics and statements from Selective Service System publications were presented in the briefing to the Court of Appeals. It is evident that depriving Taylor and Gallegos of physical examinations was a prejudicial act for Taylor had not been examined for five years and nine months before given the Order and Gallegos four years, four months.

The physical examination of registrants is governed by the regulations, 32 C.F.R., § 1623. Subsection 1623.3 says:

"PHYSICAL EXAMINATION.

"Physical examination of registrants classified in Class I-A, Class I-A-O, or Class I-O shall be accomplished under the provisions of part 1628, of this chapter."

Then see Subsection 1628.10. It has two significant words: "every" with respect to registrants, thus showing that it was intended that every registrant was to be examined, as provided; and "shall" was used, making the procedure mandatory.

"ARMED FORCES PHYSICAL EXAMINATION.

"1628.10 Who Will Be Examined—

Every registrant, before he is ordered to report for induction, or *ordered to perform civilian work* contributing to the maintenance of the national health, safety, or interest *shall be* given an armed forces physical examination under the provisions of this part, except that a registrant who is a delinquent and a registrant

who has volunteered for induction may be ordered to report for induction without being given an armed forces physical examination." (Emphasis supplied).

Concerning the period of validity of the examination Local Board Memorandum No. 28, in effect during the processing of these petitioners made 120 days the maximum:

"2. Action by Local Board.—(a) Except in the cases of postponed registrants, the 120-day period of validity continues in effect for armed forces physical examinations. However, when a registrant whose physical examination is more than 120 days old is selected for induction, the local board shall not order him to report for armed forces physical examination but shall order him to report for induction. In each such case the registrant will receive a complete examination at the armed forces induction station and when found acceptable will be immediately inducted."

It is evident that both petitioners were deprived of a substantial opportunity for having their religious quarrel with the agency settled in a manner neither the agency nor the petitioners could object to, Taylor not having had an examination for more than five years and Gallegos for more than four years.

II.

Petitioners were denied a physical examination upon their reprocessing by the Selective Service System and this was a denial of due process.

Upon reopening of a classification a registrant is entitled to be reprocessed anew. The regulation is clear and mandatory:

"1625.11 Classification Considered Anew When Reopened. When the local board reopens the regis-

trant's classification, it shall consider the new information which it has received and shall again classify the registrant in the same manner as if he had never before been classified. Such classification shall be *and have the effect of a new and original classification* even though the registrant is again placed in the class that he was in before his classification was reopened." (Italics supplied).

These petitioners' classifications were reopened *three times each* after their physical examinations:

Gallegos:

3/10/54	Classification in Class I-A (By L. Bd.)
3/9/54	Found acceptable (Physical Exam.) [*The only exam. he ever had*]
1/21/55	Reclassification in Class I-O (By A. Bd.)
3/12/58	Reclassification in Class I-A (By L. Bd.)
4/28/58	Reclassification in Class I-O (By A. Bd.)

Taylor:

3/11/52	Classification in Class I-A (By L. Bd.)
2/18/53	Found acceptable (Phys. Exam.) [*The only exam. he ever had*]
8/10/54	Reclassification in Class I-O (By A. Bd.)
3/5/58	Reclassification in Class I-O (By L. Bd.)
5/7/58	Hearing cont. in I-O (By L. Bd.)
6/23/58	Reclassification Class I-O (By A. Bd.)

Each was reclassified *three* times after his physical examination but neither was given a reprocessing that included a physical examination.

This was a gross violation of the regulations and a discrimination.

III.

It was error for the Court of Appeals to conclude that the evaluation of the newly discovered evidence was subject to the trial court's discretion where an unrebutted prima facie showing was made.

Newly discovered evidence must meet five tests, as cited by the Court of Appeals, in its prior decision, *Pitts* v. *United States*, 9 Cir., 1959, 263 F.2d 808, 810. Petitioners' presentation upon their motion patently met these tests. There was nothing for the trial judge's discretion.

CONCLUSION.

The petition should be granted for one or more of the three reasons herein stated.

Respectfully,

J. B. TIETZ,
Counsel for Petitioners.

January 5, 1962.

APPENDIX A.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MANUEL SANCHEZ GALLEGOS,
Appellant,
vs.
UNITED STATES OF AMERICA,
Appellee.
No. 17,330

DANIEL HOWARD JOHNSON,
Appellant,
vs.
UNITED STATES OF AMERICA,
Appellee.
No. 17,331

JOHN FRANKLIN TAYLOR,
Appellant,
vs.
UNITED STATES OF AMERICA,
Appellee.
No. 17,332

Nov. 6, 1961

Appeals from the United States District Court
for the Southern District of California,
Central Division.

Before: BARNES and HAMLEY, Circuit Judges; FOLEY, District Judge

PER CURIAM:

Here involved are three appellants, each heretofore convicted of knowingly failing and neglecting to perform

a duty severally required of him under the Universal Military Training and Service Act, 50 App. U. S. Code § 462, to-wit: Johnson refused to obey an order to report to the local board office, and Gallegos and Taylor failed to report for work, after reporting to the local board office. Each conviction was heretofore affirmed by this court, sitting *en banc*. *Johnson* v. *United States*, 1960, 285 F.2d 700. We held that the requirement that a physical examination be given to every registrant within one hundred and twenty days prior to the time he reported for induction into the armed services does not apply to persons ordered to report for civilian work in lieu of military service.

We relied, in part, on *United States* v. *Manns*, 7 Cir., 1956, 232 F.2d 709 at 712[1], and *Miller* v. *United States*, 6 Cir., 1958, 169 F.2d 865, which pointed out the different rule when a registrant is required to report for induction into the armed services, from that when the registrant reports for the noncombatant work of his choice.[2] We rejected ap-

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1. There Judge Swain relied on (a) Operations Bulletin No. 70 of the Selective Service Administration, which was issued on June 19, 1952, which reads: "It is not necessary that Class 1-O registrants be re-examined [physically] in the event they are not ordered to report to work within the 120 days following completion of their first mental and physical examination . . .", however, such a re-examination "may" be ordered; and (b) *United States* v. *Thomas*, E.D. Ill. 1954, 124 F. Supp. 411, affirmed in *United States* v. *Hoepker*, 7 Cir. 1955, 223 F.2d 921, without mention of the point here involved.

2. "Sec. 304 a of the statute under which the regulations were adopted, does not require that there be ninety days between induction and examination, even for the Army. That is left to the Army regulations. Although the statute specifies re-examinations, it does not state at what interval they should be given. That is also left to the regulations. The statute governs only those classified as 1-A, and qualified for military service. It says nothing about those who, though physically fit, are exempted from service because of their beliefs. It follows from the foregoing

pellants' argument, believing the "different stresses" rationale sound. The regulations require only that a physical examination be given to anyone within one hundred and twenty days prior to "induction."

This court, *en banc*, thereafter denied petitions for rehearings in all three cases.

Thereafter each appellant filed in the court below a motion for new trial based solely upon the ground of "newly discovered evidence." (Fed. R. Crim. P. 33.)

A motion for a new trial based upon the ground of newly discovered evidence must meet the following five requirements (*Pitts* v. *United States*, 9 Cir., 1959, 263 F.2d 808, 810):

1. Evidence must be newly discovered after the trial.
2. There must be diligence on part of movant.
3. The evidence must be more than merely cumulative or impeaching.
4. The evidence must be material to the issues involved.
5. The evidence must be such as would probably produce an acquittal.

Appellants rely, as evidence on the existence of an "administrative agency interpretation," dated November 28, 1960, enlarging upon an "administrative agency interpretation" dated September 30, 1960, and itself revoked by an

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that an examination need only be given at some time prior to the order to report for work of national importance . . . ." *Miller* v. *United States*, 6 Cir. 1948, 169 F.2d 865 at 867

"administrative agency interpretation" dated March 10, 1961.[3]

If we concede that an "administrative agency interpretation" is evidence, and not law, we see that such evidence, *first coming into existence in November, 1960,* could not relate to nor control procedures in effect on the dates of the three offenses of failure to report in 1958; might well be deficient under the second and third requirements hereinabove mentioned; and certainly would fail under the fourth and *fifth requirements outlined in Pitts, supra.*

Even were we to assume this "administrative agency interpretation" was "evidence," and "newly discovered" evidence meeting the five requirements listed, the motion would be and was addressed to the sound judicial discretion of the two district court judges, each of whom denied the respective motions before him. The exercise of this discretion, in the absence of abuse, is not reviewable by this court. *Casey* v. *United States*, 9 Cir., 1927, 20 F.2d 752; *Gage* v. *United States*, 9 Cir., 1948, 167 F.2d 122; *Balestreri* v. *United States*, 9 Cir., 1955, 224 F.2d 915; *Pitts* v. *United States*, *supra*.

No abuse of discretion is charged anywhere in appellants' brief. We are asked to again pass upon a question

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3. We need not finally determine if any of these "administrative agency interpretations," (—the first and third being letters from the Director of Selective Service to a state director, and the second written by a subordinate for the Director to a secretary of a conscientious objector's committee—) are properly before us. The fact of the *existence* of the first and second letter was known to the trial courts on the motions for new trial, but neither they nor the third letter were before the lower courts *in haec verba*, nor, in fact, in existence at the time of either trial. *Cf Bowles* v. *United States*, 1943, 319 U.S. 33, for the proposition that an appellate court can take judicial notice of all administrative interpretations.

of substantive law previously decided by us adversely to appellants. This we cannot, and will not, do.

The action of the respective courts below in denying motions for new trial are, and each is, *Affirmed.*

(Endorsed) Per Curiam Opinion Filed Nov. 6, 1961.
Frank H. Schmid, Clerk.

APPENDIX B.

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MANUEL SANCHEZ, GALLEGOS,
Appellant,
vs.
UNITED STATES OF AMERICA,
Appellee.

No. 17331.

APPEAL from the United States District Court for the Southern District of California, Central Division.

THIS CAUSE came on to be heard on the Transcript of the Record from the United States District Court for the Southern District of California, Central Division, and was duly submitted.

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court, that the ..... judgment of the said District Court in this Cause be, and hereby is affirmed.

Filed and entered November 6, 1961.

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHN FRANKLIN TAYLOR,
Appellant,
vs.
UNITED STATES OF AMERICA,
Appellee.
No. 17332

APPEAL from the United States District Court for the Southern District of California, Central Division.

THIS CAUSE came on to be heard on the Transcript of the Record from the United States District Court for the Southern District of California, Central Division, and was duly submitted.

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court, that the judgment of the said District Court in this Cause be, and hereby is affirmed.

Filed and entered November 6, 1961.

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Cases:

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Taylor v. *United States*, *Gallegos* v. *United States*, 285 F. 2d 700 — 2, 3, 4

Wolcher v. *United States*, 76 Sup. Ct. 254 — 5

United States v. *Johnson*, 327 U.S. 106 — 5

Statute, rule and regulation:

Universal Military Training and Service Act, 50 U.S.C. App. 462 — 2

Rule 33, F. R. Crim. P. — 2, 5

32 C.F.R. 1622.2 — 3

637214—62

In the Supreme Court of the United States

OCTOBER TERM, 1961

No. 646

MANUEL SANCHEZ GALLEGOS, JOHN FRANKLIN TAYLOR, PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINION BELOW

The opinion of the court of appeals (2 R. 5–8;[1] Pet. App. 1–5) is not yet reported.

JURISDICTION

The judgments of the court of appeals were entered on November 6, 1961 (2 R. 9–10; Pet. App. 6–7). On December 4, 1961, Mr. Justice Douglas entered an order extending the time for filing a petition for a writ of certiorari to and including January 5, 1962. The petition was filed on January 4, 1962.

[1] Volume 1 of the record consists of a separate part for each of the petitioners, Gallegos and Taylor, the parts being referred to herein as "1 R.G." and "1 R.T.".

The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTION PRESENTED

Whether the district court abused its discretion in denying petitioners' motions for new trials on grounds of newly discovered evidence.

RULE INVOLVED

Rule 33, F.R. Crim. P.:

> The court may grant a new trial to a defendant, if required in the interest of justice. * * * A motion for a new trial based on the ground of newly discovered evidence may be made only before or within two years after final judgment, but if an appeal is pending the court may grant the motion only on remand of the case. A motion for a new trial based on any other grounds shall be made within 5 days after verdict or finding of guilty or within such further time as the court may fix during the 5-day period.

STATEMENT

Each petitioner was indicted on July 8, 1959, and thereafter convicted in the United States District Court for the Southern District of California for having failed in 1958 to obey an order to report for civilian work with the Los Angeles Department of Charities as a conscientious objector, in violation of the Universal Military Training and Service Act, 50 U.S.C. App. 462 (1 R.G. 15; 1 R.T. 14; 2 R. 5–7; *Taylor* v. *United States, Gallegos* v. *United States,* 285 F. 2d 700, 702 (C.A. 9)). Following imposition of sentences of five years, each petitioner appealed

from the judgment of conviction, contending, *inter alia,* that in violation of the law and the selective service regulations the government had failed to afford him a physical examination within 120 days of the order to report for induction. The court of appeals, on December 12, 1960, unanimously affirmed the convictions, rejecting this contention as inapplicable to persons ordered to report for civilian work in lieu of military service (1 R.G. 2; 1 R.T. 2; *Taylor* v. *United States, Gallegos* v. *United States, supra,* at 701–703).

Thereafter, on March 20 and 23, 1961 (1 R.G. 17; 1 R.T. 16), petitioners moved individually in the trial court under Rule 33 of the Federal Rules of Criminal Procedure for new trials based upon the ground of "newly discovered evidence." Both petitioners relied solely upon a letter of November 28, 1960 (1 R.G. 2, 13; 1 R.T. 2, 13), from the Chief of the Manpower Division of the Selective Service System to the Executive Secretary of the Central Committee for Conscientious Objectors, which advised that recently announced procedure for reexamination of persons classified "I–A and I–A–O" "also appl[y] to registrants who are classified in Class I–O."[2] In opposition to the motions, the government contested the nature of the letter as "evidence," and denied that it had any relevance to petitioners' offenses which were committed over two years before its writing. In addition, the government offered proof, based upon a letter of March 10, 1961, from the Director of the Selective Service System (ap-

[2] I–A–O registrants are conscientious objectors who are to serve with the armed forces; I–O registrants serve in civilian work (32 C.F.R. 1622.2).

pended to the brief in the court of appeals and attached as an Appendix, *infra*, p. 8) that the views expressed in the November 28, 1960, letter were erroneous (1 R.G. 9–10; 1 R.T. 9–10). In the March 10 letter the Director stated that his own prior instructions, that I–A and I–A–O registrants should be re-examined if they had been found qualified for induction more than one year prior to their scheduled inductions, had been erroneously modified by the letter of November 28, 1960, adding registrants in Class I–O.

The district court denied both motions (1 R.G. 17; 1 R.T. 16), and the court of appeals affirmed (2 R. 5–8; Pet. App. 1–5). The court of appeals held that the Manpower Chief's letter, first in existence two years after the offenses charged, was irrelevant with respect to proper procedures for pre-service examination at the earlier time and could not produce an acquittal (2 R. 7–8; Pet. App. 4–5). The court also held that, even assuming that the letter was found to qualify as "newly discovered evidence," the motions were addressed to the sound judicial discretion of the district court, the exercise of which, in absence of abuse not charged or shown, is not reviewable (*ibid.*; Pet. App. 4). The court of appeals also refused to pass a second time on petitioners' argument, previously heard and rejected (285 F. 2d 700), that the government's failure to grant them an examination within 120 days prior to the order to report for civilian work was a violation of the law (2 R. 8; Pet. App. 4–5).

ARGUMENT

1. It is well established that "[a] trial judge's order denying a motion for a new trial on an appraisal of newly discovered evidence should remain undisturbed 'except for most extraordinary circumstances.' *United States* v. *Johnson*, 327 U.S. 106, 111." *Wolcher* v. *United States*, 76 Sup. Ct. 254, 255. As declared by the court of appeals, there is clearly no basis here for finding an abuse of discretion by the trial court. Petitioners concede, in the single paragraph devoted by them to this issue (Pet. 8), that a motion for a new trial on the ground of newly discovered evidence must meet five requirements in order to qualify for the two-year period provided by Rule 33 (*Pitts* v. *United States*, 263 F. 2d 808, 810 (C.A. 9), certiorari denied, 360 U.S. 919):

> 1. Evidence must be newly discovered after the trial.
>
> 2. There must be diligence on part of movant.
>
> 3. The evidence must be more than merely cumulative or impeaching.
>
> 4. The evidence must be material to the issues involved.
>
> 5. The evidence must be such as would probably produce an acquittal.

Petitioners do not meet even one of these five requirements. We do not believe that it may be assumed, even *arguendo*, (1) that the Manpower Chief's erroneous letter of interpretation of law was "evidence"; (2) that petitioners showed proper diligence when they had failed to make—at a reasonable time—the inquiry to which that letter was a response; or (3)

that the letter was anything more than cumulative or impeaching with respect to the whole body of more formal and authoritative selective service regulations. But in any event, the trial court was manifestly exercising sound judicial discretion, since (4) an interpretation in a letter by an officer in the Selective Service System, enunciated on November 28, 1960, and corrected by the Director of the System on March 10, 1961, was not relevant "evidence" with respect to procedures with which petitioners were ordered in 1958 to enter upon required civilian work. Moreover, (5) there was no showing that the "evidence" would have produced an acquittal. The motions for a new trial indicated no way in which the November 28 letter could counter the specific language of the selective service regulations which required a physical examination 120 days before "induction." Reporting for civilian work outside the armed forces is not induction (2 R. 6; Pet. App. 2).

2. Petitioners also ask this Court to review the question which they raised unsuccessfully on direct appeal, *i.e.*, whether they should have been given a second physical examination within 120 days of the time they were ordered to report for civilian work. The court of appeals properly resolved this question against petitioners in affirming their convictions on direct review on December 12, 1960, rehearing denied, January 26, 1961 (285 F. 2d 700). Further review, by this Court, was not sought. Petitioners' attempt to use a motion for a new trial as a vehicle for still another appeal on this issue was properly rejected by the court below. Beside the fact that their objection

had already been twice heard and denied, it was unavailable under Rule 33 since the motions were not made within five days after trial.

CONCLUSION

For the reasons stated, it is respectfully submitted that the petition for a writ of certiorari should be denied.

ARCHIBALD COX,
Solicitor General.
HERBERT J. MILLER, JR.,
Assistant Attorney General.
BEATRICE ROSENBERG,
J. F. BISHOP,
Attorneys.

FEBRUARY 1962.

APPENDIX

NATIONAL HEADQUARTERS
SELECTIVE SERVICE SYSTEM

451 Indiana Avenue Northwest
Washington 25, D.C.

Address Reply To
The Director of Selective Service

MARCH 10, 1961.

AIR MAIL

STATE DIRECTOR OF SELECTIVE SERVICE,
Old Post Office Building,
7th and K Streets,
Sacramento 14, California.

DEAR COLONEL LEITCH:

There is enclosed, as you requested, a copy of the letter sent by Colonel Ingold to Mr. George Willoughby on November 28, 1960, relating to reexamination of registrants.

My instructions to State Directors, in my letter of September 30, 1960, expressed the viewpoint of National Headquarters that I–A and I–A–O registrants should be forwarded for reexamination if they had been found qualified for induction more than a year prior to their scheduled inductions. The purpose was to reduce the number of rejections when registrants reported for induction into the armed forces.

My letter referred only to I–A and I–A–O registrants who were about to be ordered for induction into the armed forces. I have not requested State Directors to reexamine I–O registrants whose physical

examinations were more than a year old, before assigning them to civilian work in lieu of induction.

Insofar as Colonel Ingold's letter of November 28, 1960 modified the plain language of my letter of September 30, 1960, his letter was in error and does not represent my view.

Sincerely yours,

LEWIS B. HERSHEY,
Director.

Enclosure.

U S GOVERNMENT PRINTING OFFICE 1962